

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

R. DANIEL BRADY ET AL.,)	
)	
Plaintiffs,)	
)	Civil Action No. 5:09-CV-00449-BO
v.)	
)	
XE SERVICES LLC ET AL.,)	
)	
Defendants.)	
)	

**DEFENDANTS BALL, HEARD, LIBERTY, SLATTEN AND SLOUGH'S MOTION TO
SUBSTITUTE THE UNITED STATES AS
DEFENDANT PURSUANT TO THE WESTFALL ACT**

Defendants Donald Wayne Ball, Dustin L. Heard, Evan Shawn Liberty, Nicholas Abram Slatten, and Paul Alvin Slough (collectively “the Movants”) hereby petition this Court to certify that, pursuant to the Westfall Act, 28 U.S.C. § 2679(d)(3), the Movants were “employee[s] of the Government . . . acting within the scope of [their] . . . employment” when the events giving rise to the above-captioned action occurred, and accordingly, to order that the United States “be substituted as the party defendant” in place of the Movants.

The Movants are submitting a memorandum in support of this Motion today, pursuant to Local Civil Rule 7(d), EDNC.

This the 7th day of April, 2010.

POYNER SPRUILL LLP

By: /s/ Keith H. Johnson
Keith H. Johnson
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DONALD WAYNE BALL; DUSTIN L.
HEARD; EVAN SHAWN LIBERTY;
NICOLAS ABRAM SLATTEN; AND
PAUL ALVIN SLOUGH

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed the foregoing **INDIVIDUAL DEFENDANTS' MOTION TO SUBSTITUTE THE UNITED STATES IN PLACE OF ALL DEFENDANTS PURSUANT TO THE WESTFALL ACT** with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel and parties of record.

In addition, I hereby certify that, pursuant to 28 U.S.C. § 2679(d)(3) and Federal Rule of Civil Procedure 4(i)(1) (previously Federal Rule of Civil Procedure 4(d)(4)), I served this day the foregoing Motion by certified mail to each of the following:

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United States Attorney's Office
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Phyllis Pyles
Director, Torts Branch
Civil Division
U.S. Department of Justice
Room 8098N
1331 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

This the 7th day of April, 2010.

/s/ Keith H. Johnson
Keith H. Johnson